

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

In re:

Brett Michael Harer  
**Debtor 1**

**Chapter 13**

**Case No.** 4:23-BK-01767-MJC

**Matter:** Application for Payment of  
Administrative Expenses

**APPLICATION FOR PAYMENT OF ADMINISTRATIVE EXPENSES**

AND NOW comes Counsel for Debtor(s), Paul D. Murphy-Ahles, Esquire and DETHLEFS PYKOSH & MURPHY, who file the within Application for Payment of Administrative Epxenses, and aver as follows:

1. The Debtor(s) filed a Chapter 13 Petition on August 3, 2023.
2. The Standing Chapter 13 Trustee's accounting indicates that Debtor(s) have paid \$8,519.42 to his office and after payment of the Trustee's commission, the balance on hand is \$4,778.87.
3. On September 1, 2023, a Request for Payment of Chapter 13 Compensation and Expenses (LBF 2015-2(c)) was filed in conjunction with the Chapter 13 Plan.
4. Prior to the filing of Debtor(s)' case, Debtor(s) paid a retainer fee in the amount of \$368.00 with a balance due of \$4,632.00.
5. Counsel for Debtor(s) have performed post-petition services such as attending multiple hearings including attending §341 Meeting of Creditors and several confirmation hearings. Counsel has also expended time and effort dealing with creditors and their respective attorneys. The post-petition services meet or exceed the presumptively reasonable fee of \$5,000.00.

6. Debtor(s) no longer wish to proceed with their case and the case was dismissed on March 8, 2024.

7. The Third Circuit stated in *In Re: Michael*, 699 F.3d 05 (3d Cir. 2012)

... under §1326(a)(2) the trustee must return all payments held by it to the debtor if a plan is not confirmed, or (ii) under §1327(b) property of the estate already is vested in the debtor at the time of the conversion after confirmation of a plan. Sections 348 and 349 are broad provisions applicable to every Chapter of the Bankruptcy Code. The specific provisions of Chapter 13 supersede any distinction that may be read into these proceedings general provision.

8. This Court finds that the specific provision of §1326(a)(2) controls the general directive in §349(b)(3) and, therefore, it should not be relevant whether the source of the undisbursed funds was pre-petition or post-petition.

9. *Harris v. Viegelahn*, 575 U.S. \_\_\_\_\_, 135 S.Ct.1928, 191 L.Ed.2d 783 (215) applies only in the instance of conversion and does not abrogate 11 U.S.C. §1326(a)(2). *See In Re:Ulmer*, 2015 WL 3955258 (Bankr.W.D. La. June 26, 2015).

10. §1326(a)(2) states that administrative expenses allowed pursuant to §503(b) are to be paid out of the funds on hand if the plan is not confirmed. *See In re: Brandon*, No. 14-23735 (lead case), *In re: Rucker*, No. 14-27630, and *In re: Burrows*, No. 14-28940 (Sept. 10, 2015):

In these circumstances, the Chapter 13 trustee is bound by the provisions of the third sentence of §1326(a)(2) of the Bankruptcy Code, which requires the Chapter 13 trustee to return undistributed plan payments to the debtor if a plan is not confirmed “after deducting any unpaid claim allowed under section 503(b).” Under §503(b)(2) of the Bankruptcy Code, the administrative expenses allowable under §503(b) include “compensation and reimbursement awarded under section 330(a).” In a Chapter 13 case, such compensation includes “reasonable compensation to the debtor’s attorney for representing the interests of the debtor in connection with the bankruptcy case.” 11 U.S.C. §330(a)(4)(B). Thus, the applicable statutory scheme expressly directs Chapter 13 Trustees to return funds on hand to the debtor when (as here) a plan is not

confirmed, but only after payment of the allowed fees of the debtor's attorney.

11. Attorneys' fees are an administrative expense under Code §503(b)(2).

WHEREFORE, Counsel for Debtor(s) respectfully requests an Order directly the Standing Chapter 13 Trustee to disburse the funds on hand, up to \$5,000.00 to counsel of record pursuant to US Bankruptcy Code §1326(a)(2) and §503(b)(2).

Date: April 10, 2024

Paul D. Murphy-Ahles, Esquire  
PA ID No. 201207  
DETHLEFS PYKOSH & MURPHY  
2132 Market Street  
Camp Hill, PA 17011  
(717) 975-9446  
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*Attorney for Debtor(s)*

**UNITED STATES BANKRUPTCY COURT**  
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**NOTICE**

NOTICE OF OPPORTUNITY TO OBJECT AND HEARING: Pursuant to Local Rule 2002-1(a), the Court will consider this Motion without further notice of hearing unless a party in interest files an objection/response on or before **May 1, 2024**. If you object to the relief requested, you must file your objection/response with the Court of the Court and serve a copy of it on the Movant and Movant's Attorney.

If you file and serve an objection/response within the time permitted, the Court may schedule a hearing and you will be notified. If you do not file an objection within the permitted time, the Court will deem the Motion unopposed and proceed to consider the Motion without further notice or hearing and the Court may grant the relief requested.

Date: April 10, 2024

Paul D. Murphy-Ahles, Esquire  
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DETHLEFS PYKOSH & MURPHY  
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*Attorney for Debtor(s)*

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**Case No.** 4:23-BK-01767-MJC

**Matter:** Application for Compensation and  
Reimbursement of Expenses

**ORDER OF COURT**

UPON CONSIDERATION of the Application for Payment of Administrative Expenses (“Application”) filed by Counsel for Debtor(s) (“Applicant”), it is HEREBY ORDERED:

1. The Application is GRANTED; and
2. Compensation is ALLOWED in favor of Applicant in the amount of \$5,000.00; and
3. The Standing Chapter 13 Trustee is authorized to disburse to DETHLEFS PYKOSH & MURPHY as an administrative expense pursuant to 11 U.S.C. §1326(b)(2), 11 U.S.C. §349(b)(3), and 11 U.S.C. §503(b), the allowed compensation set forth in Paragraph 2 of this Order of Court less \$368.00 which was paid by Debtor(s) pre-petition, to the extent that such distribution is authorized under the terms of the confirmed Chapter 13 Plan.

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

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**CERTIFICATE OF SERVICE**

I hereby certify that on Wednesday, April 10, 2024, I served a true and correct copy of the **Application for Payment of Administrative Expenses, Notice of Opportunity to Object and Hearing, and proposed Order** in this proceeding via electronic means or USPS First Class Mail upon the recipients as listed in the Mailing Matrix.

/s/ Kathryn S. Greene

Kathryn S. Greene, RP®, Pa.C.P.  
Paralegal for Paul D. Murphy-Ahles, Esquire

Label Matrix for local noticing  
0314-4  
Case 4:23-bk-01767-MJC  
Middle District of Pennsylvania  
Williamsport  
Wed Apr 10 14:30:30 EDT 2024

(p)BROCK & SCOTT PLLC  
6701 CARMEL ROAD SUITE 315  
CHARLOTTE NC 28226-4035

IC System  
PO Box 64378  
Saint Paul, MN 55164-0378

United States Trustee  
US Courthouse  
1501 N. 6th St  
Harrisburg, PA 17102-1104

Paul Donald Murphy-Ahles  
Detlefs Lykosh & Murphy  
2152 Market Street  
Camp Hill, PA 17011-4706

U.S. Bankruptcy Court  
197 S Main St, Wilkes Barre, PA 18701

Discover Bank  
Discover Products Inc  
PO Box 3025  
New Albany, OH 43054-3025

MC Federal Credit Union  
390 Walnut Street  
Danville, PA 17821-1503

Brett Michael Harer  
1616 Louisa Street  
Williamsport, PA 17701-1638

AA Self Storage  
2480 Lycoming Creek Road  
Williamsport, PA 17701-1164

Discover Bank  
PO Box 3025  
New Albany, OH 43054-3025

(p)NATIONSTAR MORTGAGE LLC  
PO BOX 619096  
DALLAS TX 75261-9096

(p)JACK N ZAHAROPOULOS  
ATTN: CHAPTER 13 TRUSTEE  
8125 ADAMS DRIVE SUITE A  
HUMMELSTOWN PA 17036-8625

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified  
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Brock & Scott, PLLC  
1315 Westbrook Plaza Drive #100  
Winston Salem, NC 27103

Nationstar Mortgage LLC  
Attn: Bankruptcy Department  
P.O. Box 619096  
Dallas, TX 75261-9741

(d)Nationstar Mortgage, LLC  
PO Box 619096  
Dallas, TX 75261-9741

Jack N Zaharopoulos  
Standing Chapter 13  
(Trustee)  
8125 Adams Drive, Suite A  
Hummelstown, PA 17036

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)MC Federal Credit Union

(u)NATIONSTAR MORTGAGE LLC

End of Label Matrix  
Mailable recipients 12  
Bypassed recipients 2  
Total 14

